



STATE OF CALIFORNIA

**COMMISSION ON
JUDICIAL PERFORMANCE**

SUMMARY OF DISCIPLINE STATISTICS

1990 – 1999

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COMMISSION ON JUDICIAL PERFORMANCE

Summary of Discipline Statistics **1990-1999**

This report summarizes statistics concerning cases in which discipline was imposed by the Commission on Judicial Performance, or imposed by the California Supreme Court on recommendation by the Commission,¹ during the years 1990 through 1999. Included in the disciplinary data are all advisory letters, public and private admonishments, public reprovls,² public censures and decisions removing judges from office that were issued during the ten-year period, a total of 499 cases. The disciplinary cases involved only trial and appellate court judges; subordinate judicial officers were not included in the study.

Data Collection

Certain information was collected about each of the cases in which discipline was imposed. This information included:

- the judge's years on bench at the time of the misconduct for which discipline was imposed;
- the judge's age at the time of the misconduct;
- whether the judge was initially elected or appointed to office;
- the size of the court of which the judge was a member;
- whether the judge previously had been disciplined;
- the type of misconduct for which the judge was disciplined; and
- the source of the complaint that resulted in discipline.

Each of the tables in the appendix corresponds to one of these seven factors. The tables are summarized in this report.

The information concerning each judge's date of birth, the date on which the judge assumed judicial office, whether the judge was initially appointed or elected to office and the size of the judge's court was obtained from the Administrative Office of the Courts.

Information about the type of misconduct for which discipline was imposed, the judge's prior disciplinary history, and the source of the complaint was derived from the Commission's case records.

¹ Prior to the amendment of the California Constitution in 1995, the California Supreme Court was responsible for imposing censures and ordering judges removed from office. Since 1995, that responsibility has been vested in the Commission, subject to discretionary review by the Supreme Court upon the judge's petition.

² Public reprovls were issued by the Commission pursuant to constitutional provisions in effect from 1988 to 1995. The public reprovl was eliminated as a sanction in 1995.

For the tables relating to tenure and age (Tables 1-A and 1-B; Tables 2-A and 2-B), it was necessary to determine a date on which the misconduct occurred in order to calculate each judge's age and tenure at the time of the misconduct. If the misconduct occurred on more than one occasion or was continuing, the earliest occurrence of the misconduct was used.

For the tables relating to the types of misconduct for which judges were disciplined (Tables 6-A and 6-B), the 24 categories that appear in the "Types of Conduct Resulting in Discipline" chart in the Commission's annual report were used to classify types of misconduct. The categories are as follows:

Abuse of contempt/sanctions	Demeanor/decorum	Misuse of court resources
Administrative malfeasance	Disqualification/disclosure	Non-substance abuse
Alcohol or drug related	and related retaliation	criminal conduct
criminal conduct	Ex parte communications	Off-bench abuse of office
Bias/appearance of bias	Failure to cooperate/lack of	On-bench abuse of
toward particular class	candor w/regulatory	authority in performance
Bias/appearance of bias (not	authorities	of judicial duties
directed toward a	Failure to ensure rights	Pre-bench misconduct
particular class)	Gifts/loans/favors/ticket-	Sexual harassment/
Comment on pending case	fixing	inappropriate workplace
Decisional delay/tardiness/	Improper business activities	gender comments
attendance/other	Improper political activities	Sleeping
dereliction of duty	Miscellaneous off-bench	Substance abuse
	conduct	

Some misconduct classified in Tables 6-A and 6-B, "Types of Misconduct Resulting in Discipline," might fit more than one of the descriptive categories. In such instances, a single category was chosen based on the emphasis of the Commission's discipline. For example, if a judge told a joke in open court that disparaged a particular ethnic group, the conduct might be categorized as either "demeanor/decorum" or "bias/appearance of bias toward a particular class." The case would be assigned to one of those categories based upon the aspect of the conduct that the Commission focused upon in its disciplinary decision. Additionally, many of the cases in the study involved discipline for more than one type of misconduct. If a judge was disciplined for different types of misconduct in a single case, each different type of misconduct was assigned to the appropriate descriptive category. For example, if a judge was disciplined for abuse of the contempt power and for misuse of court resources, that case would be assigned to both of those categories and counted as two types of misconduct. If, however, a judge was disciplined in a single case for repeated acts of abusive demeanor, that case was assigned to only the demeanor category and counted only once. If a judge was disciplined on more than one occasion in the ten-year period, each case was treated separately. For the "Types of Misconduct Resulting in Discipline" tables (Tables 6-A and 6-B), the 499 cases in the study yielded 722 instances of types of misconduct.

Data Compilation

The data concerning the disciplinary cases in the study was compiled in tables. Data concerning the entire state judiciary from 1990 through 1999, where available, was also obtained for the purpose of making certain comparisons.

This report presents the disciplinary statistics without analysis or interpretation. It was not within the scope of this study to actually draw inferences from the data or to perform any statistical testing. Without performing statistical testing, caution should be exercised in drawing statistical inferences based on observed differences in the data. The “credibility” of the sample sizes – whether the sample size of each particular group is large enough to test inferences drawn from the data based upon minimal sample size requirements – is set forth in footnotes to each table.

Each of the accompanying tables pertains to one of the seven factors listed at the outset of the section on “Data Collection.” The tables present the data concerning the factors and provide various comparisons through the use of either rates or percentages, as discussed below.

Disciplinary rates – calculating the number of occurrences per 1000 judges – are used in some tables to compare subgroups of the various factors to one another and to the entire judiciary. Rates are calculated per 1000, in accordance with standard statistical practices. The formula used to determine disciplinary rates was 1,000 times (number of judges disciplined) divided by (number of judges or number of judicial positions). The use of rates standardizes all of the subgroups for comparison purposes regardless of the actual size of each subgroup. For example, Table 3-A of the “Initially Appointed Versus Initially Elected Comparison” compares the disciplinary rate of judges initially elected to the bench to the disciplinary rate of judges initially appointed to the bench. Over the period of the study, judges appointed to the bench outnumbered elected judges by more than ten to one. The formula for determining disciplinary rates, however, adjusts for differences in the size of each group in order to allow comparisons. The following tables use disciplinary rates: “Years on Bench Comparison” (Table 1-A), “Age Comparison” (Table 2-A), “Initially Appointed Versus Initially Elected Comparison” (Table 3-A), and “Court Size Comparison” (Table 4-A).

To calculate disciplinary rates for factors involving personal attributes of judges – such as age or years on bench – the population of individuals actually serving as judges from 1990 through 1999 was used as the “number of judges” component of the formula. To determine disciplinary rates based on court size, the total number of authorized judicial positions from 1990 through 1999 – excluding subordinate judicial officers – was used as the “number of judicial positions” component of the formula, since the size of the court is measured by judicial positions, not by the number of persons who may occupy those positions. The number of authorized judicial positions in any given year does not necessarily correspond to the total number of individuals serving as judges that year. A count of the total population of judges is affected by vacancies and by the inclusion of judges who served for any portion of a given year. Differences between the number of authorized judicial positions and the number of individuals

serving as judges resulted in two different disciplinary rates: The ten-year total average disciplinary rate calculated using all individuals serving as judges for the “Years on Bench,” “Age,” and “Initially Appointed or Elected” tables was 31.4 judges per thousand; whereas, the ten-year total average disciplinary rate calculated using authorized judicial positions for the “Court Size” tables was 33.8 judges per thousand.

Percentages were used in other tables to make different comparisons. Table 5-C, “Number of Incidences of Prior Discipline Comparison,” compares the proportion of judges disciplined in the ten-year period who had a prior history of discipline to the proportion of judges disciplined who had no prior discipline. Because of limitations on the availability of data, comparisons to the entire judiciary could not be made for this factor. Table 6-A, “Types of Misconduct Resulting in Discipline – Comparison,” depicts the distribution of the types of misconduct for which discipline was imposed. Table 7-A, “Source of Complaint Comparison,” depicts the distribution of complaints according to the categories of sources filing the complaints.

The tables are summarized below.

TABLES 1-A, 1-B, 1-C: Years on Bench Comparison

As noted above, for purposes of this study, the tenure of the judges disciplined was calculated as of the earliest occurrence of the misconduct in the case.

Table 1-A sets forth disciplinary rates according to the judges’ tenure on the bench for each year as well as ten-year average rates. Although the size of each subgroup varies, the use of rates standardizes the subgroups to permit comparisons, as discussed on page 3. The ten-year average disciplinary rates are as follows:

<u>Years on Bench</u>	<u>Disciplinary Rate [Per Thousand Judges]</u>
0 through 2 years	30.9
3 through 6 years	36.0
7 through 14 years	30.3
15 or more years	29.5
Entire judiciary	31.4

The ten-year average disciplinary rates for judges in three tenure subgroups were lower than the ten-year total average rate of 31.4 judges per thousand for the entire judiciary: judges with less than three years on the bench, judges with seven through fourteen years’ tenure, and judges with fifteen or more years’ tenure. The ten-year average disciplinary rate for judges

with three through six years of judicial experience exceeded the ten-year total average rate for the judiciary as a whole.

Tables 1-B and 1-C provide the data from which the disciplinary rates in Table 1-A were derived. Table 1-B sets forth the tenure distribution of the entire state judiciary. Table 1-C provides the distribution of the judges who were disciplined according to their tenure at the time of the earliest occurrence of the misconduct for which discipline was imposed.

TABLES 2-A, 2-B, 2-C: Age Comparison

As noted above, for purposes of this study, the age of the judges disciplined was calculated as of the earliest occurrence of the misconduct in the case.

Table 2-A sets forth disciplinary rates according to the judges' ages for each year as well as ten-year average rates. Although the size of each subgroup varies, the use of rates standardizes the subgroups to permit comparisons, as discussed on page 3. The ten-year average disciplinary rates are as follows:

<u>Age</u>	<u>Disciplinary Rate</u> <u>[Per Thousand Judges]</u>
30 through 39 years	42.2
40 through 49 years	31.8
50 through 59 years	32.0
60 years and over	28.9
Entire judiciary	31.4

The ten-year average disciplinary rate for judges in the age 60 and over subgroup was lower than the ten-year total average disciplinary rate of 31.4 judges per thousand for the judiciary as a whole. The ten-year average disciplinary rate for judges between ages 30 and 39, 40 and 49 and 50 and 59 exceeded the ten-year total average disciplinary rate for the judiciary as a whole.

Tables 2-B and 2-C set forth the data from which the disciplinary rates in Table 2-A were derived. Table 2-B sets forth the age distribution of the entire state judiciary. Table 2-C provides the distribution of the judges who were disciplined according to their ages at the time of the earliest occurrence of the misconduct for which discipline was imposed.

TABLES 3-A, 3-B, 3-C: Initially Appointed Versus Initially Elected Comparison

For purposes of this study, each judge's status was determined according to whether the judge **initially** assumed office by appointment or election. Subsequent elevations and retention elections were not considered.

Table 3-A sets forth disciplinary rates according to whether the judges were initially appointed or elected to office for each year as well as ten-year averages. Although the size of each subgroup varies, the use of rates standardizes the subgroups to permit comparisons, as discussed on page 3. The ten-year average disciplinary rates are as follows:

<u>Initially Assumed Office</u>	<u>Disciplinary Rate [Per Thousand Judges]</u>
Appointed	29.8
Elected	43.6
Entire judiciary	31.4

The ten-year average disciplinary rate for judges who were initially appointed to office was lower than the ten-year total average disciplinary rate of 31.4 judges per thousand. The ten-year average disciplinary rate for judges initially elected to the bench exceeded the ten-year total average for the judiciary as a whole.

Tables 3-B and 3-C provide the data from which the disciplinary rates in Table 3-A were derived. Table 3-B sets forth the distribution of the entire state judiciary according to judges' initial appointment or election to office. Table 3-C provides the distribution of the judges who were disciplined according to their initial election or appointment to office.

TABLES 4-A, 4-B, 4-C: Court Size Comparison

The "Court Size Comparison" tables pertain only to trial court judges. Only three of the 499 cases in which discipline was imposed from 1990 through 1999 involved appellate justices, a sample too small from which to draw credible inferences. Therefore, those cases were omitted from the total number of judges disciplined. For purposes of this study, court size was determined by the number of authorized trial court positions – Court of Appeal and Supreme Court positions were excluded. Accordingly, the ten-year total average disciplinary rate for trial judges was 33.8 judges per thousand, whereas, as noted in discussing the preceding tables, the ten-year total average disciplinary rate for the judiciary as a whole was 31.4 judges per thousand.

Table 4-A sets forth disciplinary rates based on the number of authorized trial court positions in the county for each year as well as ten-year averages. Although the size of each subgroup varies, the use of rates standardizes the subgroups to permit comparisons, as discussed on page 3. The ten-year average disciplinary rates are as follows:

<u>Trial Court Size</u>	<u>Disciplinary Rate [Per Thousand Judges]</u>
Counties with 1-2 Authorized Positions	56.7
Counties with 3-9 Authorized Positions	52.5
Counties with 10-42 Authorized Positions	39.8
Counties with 43-428 Authorized Positions	29.1
All trial courts	33.8

The ten-year average disciplinary rates for trial judges from counties with 1 to 2 authorized positions, 3 to 9 authorized positions and 10 to 42 authorized positions exceeded the ten-year total average rate for all trial court judges. The ten-year average disciplinary rate for trial judges from counties with 43 to 428 authorized trial court positions was lower than the ten-year total average disciplinary rate for all trial court judges of 33.8 judges per thousand.

Tables 4-B and 4-C set forth the data from which the disciplinary rates for judges according to court size in Table 4-A were derived. Table 4-B sets forth the distribution of all authorized trial court positions by court size. Table 4-C provides the distribution of the judges who were disciplined according to the total number of trial court positions in the county where they presided.

TABLES 5-A, 5-B, 5-C, 5-D: Prior Discipline and Number of Incidences of Prior Discipline Comparisons

For purposes of this study, judges' prior discipline included discipline imposed prior to the 1990-1999 period of the study as well as any discipline imposed in the 1990's. For example, if a judge received an advisory letter in 1988 and again in 1992, the 1988 advisory would be considered one incident of prior discipline with respect to the 1992 case. If a judge received advisories in 1987 and 1991 and a private admonishment in 1998, the two advisories would be considered two incidents of prior discipline with respect to the 1998 case.

Table 5-A compares the proportion of judges disciplined in the ten-year period who previously had been disciplined to the proportion of judges who had no prior discipline. Percentages are provided for each year as well as ten-year averages. The ten-year total average percentages of judges disciplined from 1990 through 1999 according to the presence or absence of prior discipline are as follows:

<u>Discipline Status</u>	<u>Percentage of Total Discipline</u>
No prior discipline	61.7%
With prior discipline	38.3%

Table 5-B presents the number of judges disciplined, with and without prior discipline, from which the percentages in Table 5-A were derived.

Table 5-C sets forth the percentage of judges disciplined according to the number of prior instances of discipline. Table 5-D provides the number of judges disciplined according to the number of prior instances of discipline, from which the percentages in Table 5-C were derived.

TABLES 6-A and 6-B: Types of Misconduct – Comparison

The “Types of Misconduct Comparison” tables depict the distribution of the types of misconduct for which discipline was imposed. The manner in which the data was categorized and counted is discussed on page 2. Because many of the 499 cases in the study involved discipline for more than one type of misconduct, the instances of misconduct totaled 722.

Table 6-A depicts the distribution, set forth in percentages, of each type of misconduct for each year as well as ten-year averages. The categories of misconduct with the highest average percentages of disciplinary action over the ten-year period are as follows:

<u>Type of Misconduct</u>	<u>Percentage of Total Discipline</u>
Demeanor/decorum	13.4%
Bias/appearance of bias (not toward a particular class)	9.8%
Disqualification/disclosure and related retaliation	9.3%
On-bench abuse of authority – in performance of judicial duties	7.9%
Ex parte communications	7.6%
Decisional delay/tardiness/attendance/ other dereliction of duty	6.9%
Failure to ensure rights	6.8%
Off-bench abuse of office	6.8%
Abuse of contempt/sanctions	6.2%

Table 6-B furnishes the distribution of the number of instances of each type of misconduct from which the percentages in Table 6-A were derived.

TABLES 7-A and 7-B: Source of Complaint Comparison

The “Source of Complaint Comparison” tables depict the distribution, set forth in percentages, of complaints that resulted in discipline according to the source of the complaint.

Table 7-A sets forth the ten-year average percentages of total discipline from each source type, as follows:

<u>Complaint Source</u>	<u>Percentage of Total Discipline</u>
Litigant/family or friend of litigant	34.7%
Attorney	29.9%
All other complainants who identified themselves (including citizens, jurors, witnesses, and government officials)	14.0%
Source other than complaint (includes anonymous letters, news reports)	13.4%
Judge/court staff	8.1%

Table 7-B furnishes the distribution of the number of complaints from each source type, from which the percentages in Table 7-A were derived.

The distribution of sources of complaints that resulted in discipline differs from the distribution of sources of **all** complaints received by the commission from 1990 through 1999. The distribution of all complaints received by the commission according to source type for the years 1990 through 1999 is as follows:

<u>Complaint Source</u>	<u>Percentage of Total Complaints</u>
Litigant/family or friend of litigant	78.9%
All other complainants	9.8%
Attorney	7.6%
Source other than complaint	1.9%
Judge/court staff	1.6%

The percentage of complaints resulting in discipline from the source type “litigant/family or friend of litigant” (34.7%) was lower than the percentage of total complaints received by the commission from that source type between 1990 and 1999 (78.9%). All other source types had a higher percentage of complaints resulting in discipline than their proportionate share of all complaints received by the commission. These included the source types “attorney” (29.9% resulting in discipline versus 7.6% of total complaints) and “judge/court staff” (8.1% resulting in discipline versus 1.6% of total complaints).

APPENDIX

Years on Bench Comparison

Table 1-A

Discipline Rates (Number of Judges Disciplined Per Thousand Judges)

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
0 through 2	23.8	23.6	56.7	25.8	21.5	12.2	25.5	50.4	47.6	24.8	30.9
3 through 6	43.2	33.6	38.6	34.3	44.3	38.8	19.9	40.4	37.4	23.9	36.0
7 through 14	36.5	23.6	33.8	13.1	24.9	38.5	29.2	35.4	40.9	26.8	30.3
15+	38.6	14.4	19.5	26.1	38.3	42.6	32.9	19.4	35.9	25.6	29.5
Total	35.7	24.3	35.1	22.5	31.9	35.4	28.1	34.6	39.9	25.7	31.4

Table 1-B

Number of Judges - Entire Judiciary

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
0 through 2	336	296	194	155	186	246	235	278	231	202	2,359
3 through 6	370	357	389	408	361	335	251	223	294	293	3,281
7 through 14	630	635	650	685	682	675	718	735	660	634	6,704
15+	259	278	307	306	339	352	395	412	446	469	3,563
Total	1,595	1,566	1,540	1,554	1,568	1,608	1,599	1,648	1,631	1,598	15,907

Table 1-C

Number of Judges Disciplined

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
0 through 2	8	7	11	4	4	3	6	14	11	5	73
3 through 6	16	12	15	14	16	13	5	9	11	7	118
7 through 14	23	15	22	9	17	26	21	26	27	17	203
15+	10	4	6	8	13	15	13	8	16	12	105
Total	57	38	54	35	50	57	45	57	65	41	499

Notes:

[1] The data appears credible for the purpose of performing significance testing by year based on minimal sample size requirements.

[2] Rate per thousand = 1,000 x (judges disciplined)/(number of judges).

[3] Entire Judiciary data was provided by the Administrative Office of the Courts.

[4] Disciplinary data was provided by the California Commission on Judicial Performance.

[5] The entire judiciary represents every judge who served for any year or fraction of a year (a judge will be counted for the entire year even if leaving office in January).

[6] Year of discipline data is based on number of years on bench at time of earliest occurrence of the misconduct.

Age Comparison

Table 2-A

Discipline Rates (Number of Judges Disciplined Per Thousand Judges)

Age Band	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
30-39	41.7	0.0	64.5	37.0	0.0	34.5	41.7	185.2	0.0	50.0	42.2
40-49	34.0	26.1	36.5	19.3	25.5	37.8	28.4	41.3	42.5	29.1	31.8
50-59	33.7	24.6	42.0	23.8	41.9	36.1	26.2	29.6	36.7	26.3	32.0
60+	40.5	24.1	19.1	23.6	25.5	31.2	30.6	27.0	46.7	20.6	28.9
Total	35.7	24.3	35.1	22.5	31.9	35.4	28.1	34.6	39.9	25.7	31.4

Table 2-B

Number of Judges - Entire Judiciary

Age Band	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
30-39	72	47	31	27	22	29	24	27	33	20	332
40-49	588	574	548	517	509	502	458	436	400	344	4,876
50-59	564	570	595	629	645	692	725	778	791	797	6,786
60+	370	374	366	381	392	385	392	407	407	437	3,911
Unknown	1	1	-	-	-	-	-	-	-	-	2
Total	1,595	1,566	1,540	1,554	1,568	1,608	1,599	1,648	1,631	1,598	15,907

Table 2-C

Number of Judges Disciplined

Age Band	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
30-39	3	-	2	1	-	1	1	5	-	1	14
40-49	20	15	20	10	13	19	13	18	17	10	155
50-59	19	14	25	15	27	25	19	23	29	21	217
60+	15	9	7	9	10	12	12	11	19	9	113
Total	57	38	54	35	50	57	45	57	65	41	499

Notes:

[1] The data does not appear credible for the 30-39 age band for the purpose of performing significance testing by year based on minimal sample size requirements. However, the 30-39 age band does appear credible for the ten year average based on minimal sample size requirements.

[2] Rate per thousand = $1,000 \times (\text{judges disciplined}) / (\text{number of judges})$.

[3] Entire Judiciary data was provided by the Administrative Office of the Courts.

[4] Disciplinary data was provided by the California Commission on Judicial Performance.

[5] The entire judiciary represents every judge who served for any year or fraction of a year (a judge will be counted for the entire year even if leaving office in January).

[6] Age of judge data is based on age at time of earliest occurrence of the misconduct.

Initially Appointed Versus Initially Elected Comparison

Table 3-A

Discipline Rates (Number of Judges Disciplined Per Thousand Judges)

Appointed/Elected Status	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
Appointed	32.3	23.2	32.2	19.8	30.4	36.1	26.3	32.4	41.4	22.6	29.8
Elected	64.0	32.6	57.1	42.8	43.2	30.5	41.2	50.5	27.5	48.9	43.6
Total	35.7	24.3	35.1	22.5	31.9	35.4	28.1	34.6	39.9	25.7	31.4

Table 3-B

Number of Judges - Entire Judiciary

Appointed/Elected Status	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
Appointed	1,423	1,382	1,365	1,367	1,383	1,411	1,405	1,450	1,449	1,414	14,049
Elected	172	184	175	187	185	197	194	198	182	184	1,858
Total	1,595	1,566	1,540	1,554	1,568	1,608	1,599	1,648	1,631	1,598	15,907

Table 3-C

Number of Judges Disciplined

Appointed/Elected Status	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
Appointed	46	32	44	27	42	51	37	47	60	32	418
Elected	11	6	10	8	8	6	8	10	5	9	81
Total	57	38	54	35	50	57	45	57	65	41	499

Notes:

[1] The data appears credible for the purpose of performing significance testing by year based on minimal sample size requirements.

[2] Rate per thousand = 1,000 x (judges disciplined)/(number of judges).

[3] Entire Judiciary data was provided by the Administrative Office of the Courts.

[4] Disciplinary data was provided by the California Commission on Judicial Performance.

[5] The entire judiciary represents every judge who served for any year or fraction of a year (a judge will be counted for the entire year even if leaving office in January).

Court Size Comparison

Table 4-A

Discipline Rates (Number of Judges Disciplined Per Thousand Judges)

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
Counties with 1 - 2 Authorized Positions	33.3	33.3	33.3	33.3	0.0	100.0	133.3	133.3	0.0	66.7	56.7
Counties with 3 - 9 Authorized Positions	88.7	50.0	25.0	25.0	50.0	66.7	50.0	40.0	40.0	88.7	52.5
Counties with 10 - 42 Authorized Positions	19.5	13.1	46.5	26.6	53.2	63.1	36.5	48.7	64.9	26.0	39.8
Counties with 43 - 428 Authorized Positions	36.7	26.8	35.7	22.8	26.8	26.8	23.8	32.4	39.3	19.7	29.1
Total	37.5	26.0	37.0	24.0	33.6	39.1	30.8	38.5	43.9	27.7	33.8

Table 4-B

Number of Authorized Positions - Trial Courts *

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
Counties with 1 - 2 Authorized Positions	30	30	30	30	30	30	30	30	30	30	300
Counties with 3 - 9 Authorized Positions	124	120	120	120	120	120	120	125	125	124	1,218
Counties with 10 - 42 Authorized Positions	307	305	301	301	301	301	301	308	308	308	3,041
Counties with 43 - 428 Authorized Positions	1,007	1,007	1,008	1,008	1,008	1,008	1,008	1,017	1,017	1,017	10,105
Total	1,468	1,462	1,459	1,459	1,459	1,459	1,459	1,480	1,480	1,479	14,664

Table 4-C

Number of Trial Court Judges Disciplined

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
Counties with 1 - 2 Authorized Positions	1	1	1	1	-	3	4	4	-	2	17
Counties with 3 - 9 Authorized Positions	11	6	3	3	6	8	6	5	5	11	64
Counties with 10 - 42 Authorized Positions	6	4	14	8	16	19	11	15	20	8	121
Counties with 43 - 428 Authorized Positions	37	27	36	23	27	27	24	33	40	20	294
Total	55	38	54	35	49	57	45	57	65	41	496

Notes:

[1] The data appears credible for the purpose of performing significance testing by year based on minimal sample size requirements.

[2] Rate per thousand = 1,000 x (judges disciplined)/(number of positions)

[3] Authorized positions data was provided by the Administrative Office of the Courts.

[4] Disciplinary data was provided by the California Commission on Judicial Performance.

* The total number of authorized judicial positions in California (appellate and trial courts) during the period of the study was:

1990 – 1555; 1991 – 1553; 1992 – 1554; 1993 – 1554; 1994 – 1554; 1995 – 1554; 1996 – 1554; 1997 – 1580; 1998 – 1580; 1999 – 1580.

Prior Discipline Comparison

Table 5-A

Distribution of Judges Disciplined by Prior Discipline Status

Discipline Status	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
No Prior Discipline	52.6%	68.4%	72.2%	74.3%	68.0%	59.6%	62.2%	68.4%	52.3%	43.9%	61.7%
With Prior Discipline	47.4%	31.6%	27.8%	25.7%	32.0%	40.4%	37.8%	31.6%	47.7%	56.1%	38.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Table 5-B

Number of Judges Disciplined by Prior Discipline Status

Discipline Status	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
No Prior Discipline	30	26	39	26	34	34	28	39	34	18	308
With Prior Discipline	27	12	15	9	16	23	17	18	31	23	191
Total	57	38	54	35	50	57	45	57	65	41	499

Notes:

[1] The data appears credible for the purpose of performing significance testing by year based on minimal sample size requirements.

[2] Disciplinary data was provided by the California Commission on Judicial Performance.

Number of Incidences of Prior Discipline Comparison

Table 5-C

Distribution of Judges Disciplined by Number of Incidences of Prior Discipline

Incidences of Prior Discipline	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
0	52.6%	68.4%	72.2%	74.3%	68.0%	59.6%	62.2%	68.4%	52.3%	43.9%	61.7%
1	33.3%	21.1%	14.8%	14.3%	24.0%	22.8%	20.0%	17.5%	26.2%	31.7%	22.8%
2	8.8%	10.5%	11.1%	11.4%	6.0%	5.3%	6.7%	3.5%	9.2%	17.1%	8.6%
3	5.3%	0.0%	1.9%	0.0%	0.0%	12.3%	4.4%	5.3%	3.1%	0.0%	3.6%
4+	0.0%	0.0%	0.0%	0.0%	2.0%	0.0%	6.7%	5.3%	9.2%	7.3%	3.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Table 5-D

Number of Judges Disciplined by Number of Incidences of Prior Discipline

Incidences of Prior Discipline	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
0	30	26	39	26	34	34	28	39	34	18	308
1	19	8	8	5	12	13	9	10	17	13	114
2	5	4	6	4	3	3	3	2	6	7	43
3	3	-	1	-	-	7	2	3	2	-	18
4+	-	-	-	-	1	-	3	3	6	3	16
Total	57	38	54	35	50	57	45	57	65	41	499

Notes:

[1] The data appears credible for the purpose of performing significance testing by year based on minimal sample size requirements.

[2] Disciplinary data was provided by the California Commission on Judicial Performance.

Types of Misconduct Resulting in Discipline - Comparison

Table 6-A
Distribution of Types of Misconduct

Misconduct Type	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Average
Abuse of contempt/sanctions	4.8%	7.7%	6.8%	8.7%	5.6%	3.8%	6.8%	4.8%	7.3%	7.2%	6.2%
Administrative malfeasance	3.6%	3.8%	1.4%	8.7%	5.6%	6.4%	2.3%	4.8%	4.2%	1.4%	4.0%
Alcohol or drug related criminal conduct	2.4%	1.9%	2.7%	0.0%	0.0%	0.0%	1.1%	0.0%	0.0%	1.4%	1.0%
Bias/appearance of bias toward particular class	4.8%	3.8%	4.1%	2.2%	1.9%	2.6%	8.0%	4.8%	1.0%	5.8%	4.0%
Bias/appearance of bias (not directed toward a particular class)	15.7%	1.9%	5.5%	0.0%	7.4%	5.1%	11.4%	9.6%	18.8%	13.0%	9.8%
Comment on pending case	1.2%	1.9%	2.7%	4.3%	3.7%	3.8%	4.5%	4.8%	4.2%	2.9%	3.5%
Decisional delay/tardiness/attendance/other dereliction of duty	6.0%	3.8%	5.5%	6.5%	7.4%	7.7%	6.8%	8.4%	11.5%	2.9%	6.9%
Demeanor/decorum	16.9%	25.0%	11.0%	17.4%	16.7%	17.9%	11.4%	8.4%	11.5%	4.3%	13.4%
Disqualification/disclosure and related retaliation	3.6%	3.8%	12.3%	10.9%	11.1%	12.8%	9.1%	10.8%	5.2%	14.5%	9.3%
Ex parte communications	2.4%	13.5%	8.2%	8.7%	7.4%	7.7%	4.5%	13.3%	5.2%	8.7%	7.6%
Failure to cooperate/lack of candor w/regulatory authorities	3.6%	0.0%	1.4%	0.0%	0.0%	3.8%	3.4%	3.6%	0.0%	2.9%	2.1%
Failure to ensure rights	12.0%	0.0%	4.1%	6.5%	7.4%	6.4%	8.0%	6.0%	5.2%	10.1%	6.8%
Gifts/loans/favors/ticket-fixing	1.2%	0.0%	8.2%	2.2%	0.0%	3.8%	3.4%	0.0%	1.0%	0.0%	2.1%
Improper business activities	1.2%	0.0%	1.4%	0.0%	0.0%	1.3%	0.0%	1.2%	2.1%	0.0%	0.8%
Improper political activities	1.2%	3.8%	6.8%	2.2%	0.0%	0.0%	1.1%	1.2%	2.1%	1.4%	1.9%
Miscellaneous off-bench conduct	1.2%	3.8%	0.0%	4.3%	1.9%	1.3%	0.0%	1.2%	5.2%	4.3%	2.2%
Misuse of court resources	0.0%	1.9%	0.0%	2.2%	0.0%	0.0%	2.3%	0.0%	1.0%	1.4%	0.8%
Non-substance abuse criminal conduct	1.2%	0.0%	0.0%	0.0%	0.0%	1.3%	0.0%	0.0%	1.0%	0.0%	0.4%
Off-bench abuse of office	7.2%	11.5%	11.0%	6.5%	9.3%	2.6%	8.0%	4.8%	4.2%	5.8%	6.8%
On-bench abuse of authority in performance of judicial duties	8.4%	9.6%	6.8%	6.5%	13.0%	9.0%	4.5%	10.8%	6.3%	5.8%	7.9%
Pre-bench misconduct	0.0%	1.9%	0.0%	0.0%	0.0%	1.3%	0.0%	0.0%	0.0%	1.4%	0.4%
Sexual harassment/inappropriate workplace gender comments	0.0%	0.0%	0.0%	0.0%	1.9%	1.3%	3.4%	0.0%	2.1%	1.4%	1.1%
Sleeping	1.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.2%	1.0%	0.0%	0.4%
Substance abuse	0.0%	0.0%	0.0%	2.2%	0.0%	0.0%	0.0%	0.0%	0.0%	2.9%	0.4%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Notes:

- [1] The data appears credible for the purpose of performing significance testing on total number of instances of types of misconduct by year based on minimal sample size requirements.
[2] Misconduct data was provided by the California Commission on Judicial Performance.

Types of Misconduct Resulting in Discipline – Number of Types

Table 6-B
Number of Types of Misconduct

Misconduct Type	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	1990-1999 Total
Abuse of contempt/sanctions	4	4	5	4	3	3	6	4	7	5	45
Administrative malfeasance	3	2	1	4	3	5	2	4	4	1	29
Alcohol or drug related criminal conduct	2	1	2	-	-	-	1	-	-	1	7
Bias/appearance of bias toward particular class	4	2	3	1	1	2	7	4	1	4	29
Bias/appearance of bias (not directed toward a particular class)	13	1	4	-	4	4	10	8	18	9	71
Comment on pending case	1	1	2	2	2	3	4	4	4	2	25
Decisional delay/tardiness/attendance/other dereliction of duty	5	2	4	3	4	6	6	7	11	2	50
Demeanor/decorum	14	13	8	8	9	14	10	7	11	3	97
Disqualification/disclosure and related retaliation	3	2	9	5	6	10	8	9	5	10	67
Ex parte communications	2	7	6	4	4	6	4	11	5	6	55
Failure to cooperate/lack of candor w/regulatory authorities	3	-	1	-	-	3	3	3	-	2	15
Failure to ensure rights	10	-	3	3	4	5	7	5	5	7	49
Gifts/loans/favors/ticket-fixing	1	-	6	1	-	3	3	-	1	-	15
Improper business activities	1	-	1	-	-	1	-	1	2	-	6
Improper political activities	1	2	5	1	-	-	1	1	2	1	14
Miscellaneous off-bench conduct	1	2	-	2	1	1	-	1	5	3	16
Misuse of court resources	-	1	-	1	-	-	2	-	1	1	6
Non-substance abuse criminal conduct	1	-	-	-	-	1	-	-	1	-	3
Off-bench abuse of office	6	6	8	3	5	2	7	4	4	4	49
On-bench abuse of authority in performance of judicial duties	7	5	5	3	7	7	4	9	6	4	57
Pre-bench misconduct	-	1	-	-	-	1	-	-	-	1	3
Sexual harassment/inappropriate workplace gender comments	-	-	-	-	1	1	3	-	2	1	8
Sleeping	1	-	-	-	-	-	-	1	1	-	3
Substance abuse	-	-	-	1	-	-	-	-	-	2	3
Total	83	52	73	46	54	78	88	83	96	69	722

Notes:

- [1] The data appears credible for the purpose of performing significance testing on total number of instances of types of misconduct by year based on minimal sample size requirements.
[2] Misconduct data was provided by the California Commission on Judicial Performance.

Source of Complaint Comparison

Table 7-A

Distribution of Complaints that Resulted in Discipline by Source of Complaint

Complaint Source	1990-1999 Average
Attorney	29.9%
Judge/Court Staff	8.1%
Litigant/Family or Friend of Litigant	34.7%
All Other Complainants (including citizens, jurors, witnesses, and government officials)	14.0%
Source Other Than Complaint	13.4%
Total	100.0%

Table 7-B

Number of Complaints that Resulted in Discipline by Source of Complaint

Complaint Source	1990-1999 Total
Attorney	208
Judge/Court Staff	56
Litigant/Family or Friend of Litigant	241
All Other Complainants (including citizens, jurors, witnesses, and government officials)	97
Source Other Than Complaint	93
Total	695

Notes:

[1] The data appears credible for the purpose of performing significance testing by source of complaint based on minimal sample size requirements.

[2] Complaint data was provided by the California Commission on Judicial Performance.